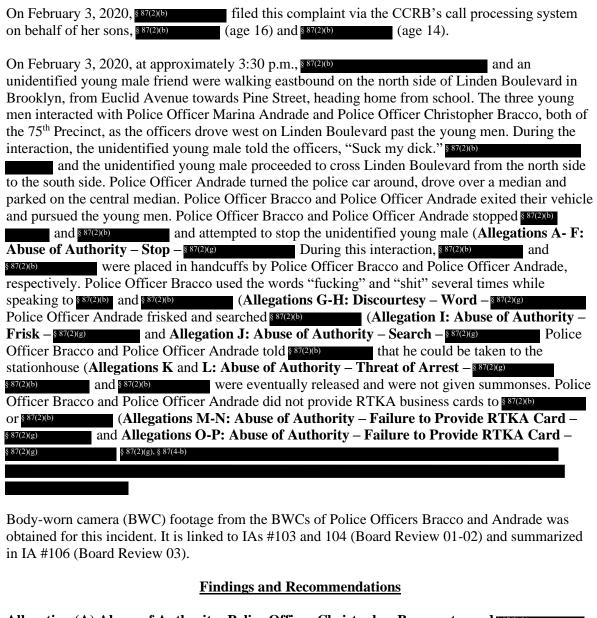
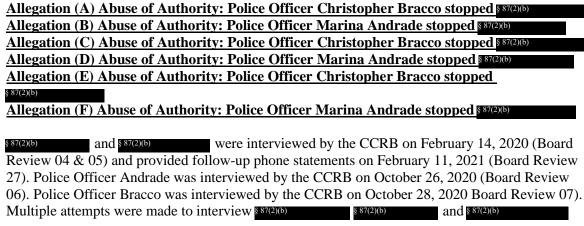
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force	√	Discourt.	U.S.
Rachel Murgo		Squad #02	202000924	☑	Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:			18 N	Io. SC	DL	Precinct:
Monday, 02/03/2020 3:30 PM		Linden Boulevard and	Pine Street		3/2	0/202	2	75
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Tim	e Rece	ived at CCI	RB
Mon, 02/03/2020 5:21 PM		CCRB	Call Processing System		Mon, 02/	03/202	0 5:21 PM	[
Complainant/Victim	Type	Home Addr	ess					
Witness(es)		Home Addr	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. POF Marina Andrade	00278	959455	075 PCT					
2. POM Christophe Bracco	08029	963410	075 PCT					
Officer(s)	Allegatio	on			Inv	estiga	tor Recon	nmendation
A . POM Christophe Bracco	Abuse: P	olice Officer Christoph	er Bracco stopped §87	7(2)(b)				
B . POF Marina Andrade	Abuse: P	olice Officer Marina A	ndrade stopped § 87(2)(6)				
C . POM Christophe Bracco	Abuse: P	olice Officer Christoph	er Bracco stopped	7(2)(b)				
D . POF Marina Andrade	Abuse: P	olice Officer Marina A	ndrade stopped § 87(2)(6)				
E . POM Christophe Bracco	Abuse: Police Officer Christopher Bracco stopped an individual.							
F . POF Marina Andrade	Abuse: P	olice Officer Marina A	ndrade stopped an					
G . POM Christophe Bracco		esy: Police Officer Chri cously to §87(2)(b)	stopher Bracco spok	e				
H . POM Christophe Bracco	Discourte	esy: Police Officer Chri	stopher Bracco spoke	e				
I . POF Marina Andrade	Abuse: P	olice Officer Marina A	ndrade frisked § 87(2)(b)					
J . POF Marina Andrade	Abuse: P	olice Officer Marina A	ndrade searched § 87(2)	(b)				
K . POM Christophe Bracco	Abuse: P	olice Officer Christoph	er Bracco threatened	to				

Officer(s)	Allegation	Investigator Recommendation
L . POF Marina Andrade	Abuse: Police Officer Marina Andrade threatened to arrest § 87(2)(b)	
M . POM Christophe Bracco	Abuse: Police Officer Christopher Bracco failed to provide with a business card.	
N . POM Christophe Bracco	Abuse: Police Officer Christopher Bracco failed to provide with a business card.	
O . POF Marina Andrade	Abuse: Police Officer Marina Andrade failed to provide with a business card.	
P . POF Marina Andrade	Abuse: Police Officer Marina Andrade failed to provide with a business card.	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary





uncle who appeared at the scene during the incident, but the investigation was unable to obtain a statement from him. The investigation was unable to obtain contact information for two other witnesses, whose first names \$87(2)(6) and § 87(2)(b) could only provide as § 87(2)(6) and § 87(2)(6) It is undisputed that § 87(2)(b) and the unidentified young male crossed Linden Boulevard at some point without using a crosswalk, and that they were stopped by Police Office Andrade and Police Officer Bracco. stated that Police Officer Bracco and Police Officer Andrade drove by him, \$87(2)(6) and the unidentified young male while they stood on the concrete island at the northeast corner of the intersection of Linden Boulevard and Euclid Avenue. As the officers were passing, they slowed down, and the unidentified young male said something like, "Suck my dick, NYPD." The officers asked what he said through the speakers of their vehicle, and the unidentified young male repeated what he had said. The officers turned around and began following the group, who had continued east on Linden Boulevard and then began crossing the street. §\$7(2)(8) acknowledged that they crossed the street without using the crosswalk after the officers first spoke to them but denied that the young men crossed the street without using a crosswalk prior to the officers' engagement with them. The officers drove up onto the central median behind [570] and the unidentified young male, and Police Officer Bracco exited his vehicle, made a comment about the boys not having anything to say anymore, and then moved back towards the police car. The unidentified young male then said that the officers could not touch them, as they had not done anything. Police Officer Bracco asked if he wanted to bet, then moved towards the group, grabbed and the unidentified young male, and walked them to a Dollar Tree store on the south side of Linden Boulevard. The unidentified young male twisted out of the officer's grip and ran off. testimony was consistent with § 87(2)(6)

Police Officer Bracco testified that §87(2)(6) and the unidentified young male were walking in the service road on the north side of Linden Boulevard when he and Police Officer Andrade first noticed them. The officers pulled up to the group and told them through the window of the car to get out of the roadway and onto the sidewalk. One of the young men asked why the officers were looking at him and said, "Suck my dick." The three young men then walked southbound across Linden Boulevard, obstructing passing traffic. Once the young men were crossing Linden Boulevard, the officers turned the car, crossed the first median and the westbound three lanes of Linden Boulevard, and pulled onto the median. Police Officer Bracco then exited his vehicle, pursued them on foot across the eastbound three lanes of Linden Boulevard, and took hold and § 87(2)(b) After bringing \$87(2)(b) and \$87(2)(b) sidewalk, Police Officer Bracco began speaking with them and eventually placed them both in handcuffs. Police Officer Bracco stated that he placed \$87(2)(6) and § 87(2)(b) handcuffs because he feared that they too would try to escape as the third young man had, since they too had initially ignored him and walked away from him, and also for the safety of the officers. Police Officer Bracco testified that when the officers stopped the young men, he intended to issue them summonses for obstructing "pedestrian" traffic or jaywalking.

Police Officer Andrade testified that when the officers turned onto the service road of Linden Boulevard, the three young men were in the process of crossing Linden Boulevard. The young men were running through traffic, pounding on cars' hoods, throwing their backpacks on cars, and forcing cars to stop for them. The officers used the lights and sirens of the vehicle to try to stop the young men and asked them to stop over the loudspeaker. One or more of the young men said,

"Fuck off," and "We don't like you pigs." After this point, Police Officer Andrade's testimony mostly matches Police Officer Bracco's. Police Officer Andrade testified that when the officers stopped the young men, she intended to write them summonses for obstructing vehicular traffic.

Neither Police Officer Bracco's BWC nor Police Officer Andrade's BWC captured this initial portion of the incident. However, Police Officer Bracco's BWC captures a conversation between himself and \$87(2)(b) and \$87(2)(b) uncle, who subsequently appeared at the scene. Police Officer Bracco states that the incident was "not a big deal," and that the "kids needed a talking-to." He states that he and Police Officer Andrade were driving and "minding [their] own business," that Police Officer Andrade is a female officer and that one of the young men told Police Officer Andrade to "suck his dick." Police Officer Bracco further states that the young men are "just being detained right now, because, if he wants to, you know, be talking that way, telling a female officer to suck his dick, I'm going to stop him for jaywalking! If he wants to play these stupid games, I'm going to play stupid games with him... But I can't just be like, 'All right, get out of here,' and let him think that this is ok behavior. Obviously, jaywalking's not a big deal, right? Like, everyone does it. But, when unprovokingly [sic], he's just telling a female officer to suck his dick, that's...someone needs to be talked to, you know what I mean?" Police Officer Bracco later adds, "Well...there's a lot of animosity against the police, obviously... That's no secret. And that's what this was. That's what this was all about."

New York City Vehicle and Traffic Rules Section 4-04 (c)(3) prohibits pedestrians from crossing a roadway "except at a crosswalk on any block in which traffic control signals are in operation at both intersections bordering the block" (Board Review 14).

While it is undisputed that the young men jaywalked, there is a disagreement between the version of events presented by \$\frac{87(2)(6)}{2}\$ and \$\frac{87(2)(6)}{2}\$ and the versions of events presented by the officers. In the young men's version, they jaywalked after being addressed by the officers (who addressed the young men in response to impolite, but legal remarks), once the officers had begun pursuing them. The officers, however, testified that they addressed the young men because they say them already jaywalking and impeding vehicular traffic, and that the discourteous remarks towards the officers by the third young man only occurred after that point.
Allegation (G) Discourtesy: Police Officer Christopher Bracco spoke discourteously to 887(2)(6)
Allegation (H) Discourtesy: Police Officer Christopher Bracco spoke discourteously to
It is undisputed that Police Officer Bracco used profanity while speaking to \$87(2)(b) and \$87(2)(b)
Police Officer Bracco confirmed that he used profanity including the words "fucking" and "shit"

Police Officer Bracco's BWC shows no large crowd or hostile members of the public in the area,

Bracco further explained this was simply how he speaks, using profanity as "filler words."

while speaking to \$87(2)(b) and \$87(2)(b) When asked whether there was a reason for doing so, he denied that there was, except to attempt to "connect" to the young men. Police Officer

and no other complicating circumstances for the stop of \$870,000 or \$870,000 Police Officer Bracco repeatedly uses words such as "fucking" and "shit" while speaking to \$870,000 and \$870,000 who are handcuffed and relatively calm at the time.
<u>Patrol Guide Procedure 200-02</u> requires officers to "maintain a higher standard of integrity than is generally expected of others" and to "respect the dignity of each individual and render…services with courtesy and civility" (Board Review 25).
<u>DAO-DCT Case Number 2018-18951</u> states that "there are certain situations where profane remarks made during a stressful or chaotic situation would not constitute misconduct" (Board Review 26).
Police Officer Bracco himself cited no law-enforcement purpose for his repeated use of the words "shit" and "fucking" while interacting with \$\frac{8}{3}(2)(0)\$ and \$\frac{8}{3}(2)(0)\$ at the times he did so the young men were in handcuffs, there was no crowd around, and the street encounter was not in a chaotic or stressful state, \$\frac{8}{3}(2)(0)\$
Allegation (I) Abuse of Authority: Police Officer Marina Andrade frisked 887(2)(6) Allegation (J) Abuse of Authority: Police Officer Marina Andrade searched
stated that Police Officer Andrade lifted the front of his coat after stopping him. He denied having anything in his pockets at the time of the incident.
denied that \$87(2)(6) had pockets on his clothes at the time of the incident.
Police Officer Andrade stated that service had what she later found to be a Beats Pill speaker in a pocket at his waistband, though she could not recall in which pocket or on which side of service body the speaker was located. The object, which had an oblong shape like an oval, was approximately 3" across and 6" long. Police Officer Andrade noticed it soon after approaching and service at the corner. Based on the approximate size and shape of the object, Police Officer Andrade believed it may have been "the handle of a weapon." When asked what sort of weapon, Police Officer Andrade said, "a handle of a gun, a handle of a knife." Police Officer Andrade ran the back of her hand over service pocket for the sole purpose of ensuring that the object was not a weapon. When Police Officer Andrade touched the object and heard music coming from it, she realized that it was a speaker.
Police Officer Andrade did not recall frisking or searching either young man beyond this. When asked whether she lifted up the front of the coat of one of them, Police Officer Andrade said that she "might have," but did not remember doing so.
Police Officer Bracco did not see a speaker in pocket. He learned of Police Officer Andrade's frisk of step after the incident.
No frisk or search is captured in the BWC of the incident. Since Police Officer Andrade's BWC footage does not capture any of the incident that occurred outside of the police car, and Police Officer Bracco's camera was primarily pointed at positioned too high to show either young man's waistband, and did not capture the beginning of the interaction, it is possible that any frisk or search that occurred was simply not captured. There is no music playing audibly that appears to come from

A photograph of the type of speaker Police Officer Andrade mentioned is linked to IA #145 (Board Review 17). It is a thick, stout, roughly cylindrical shape that is straight and does not taper or bend.

In light of Police Officer Andrade's own account of frisking pocket, and her acknowledgement that she "might have" lifted up the front of his jacket, as he alleged, the investigation credited that she frisked and searched him.

<u>People v. De Bour, 40 N.Y.2d 210</u> (1976) states that an officer may frisk a person if that officer "reasonably suspects" that they are "in danger of physical injury by virtue of the detainee being armed" (Board Review 22).

<u>People v. Shuler, 98 A.D.3d 695</u> (2012) specifies that "facts providing the police with reasonable suspicion justifying a forcible stop do not necessarily provide reasonable suspicion justifying a frisk. Relevant considerations in the determination of whether there is reasonable suspicion that the suspect poses a danger include...the shape, size and location of any bulges in the suspect's clothing" (Board Review 24).

<u>Patrol Guide Procedure 212-11</u> states that a frisk is allowed "when the member of the service reasonably suspects the person is armed and dangerous. This includes situations in which... the officer observes something on the person that [the officer] reasonably suspects is a weapon." When a frisk "reveals an object that the member of the service reasonably suspects may be a weapon, the member of the service may search only those interior portions of the stopped person's clothing to remove the weapon (Board Review 18).

Given the size and shape of the speaker described by Police Officer Andrade, which she described	1
as playing music during the incident, as well as her inability to specify what kind of weapon she	
believed may have been in \$87(2)(b) pocket, \$87(2)(g)	

Allegation (K) Abuse of Authority: Police Officer Christopher Bracco threatened to arrest

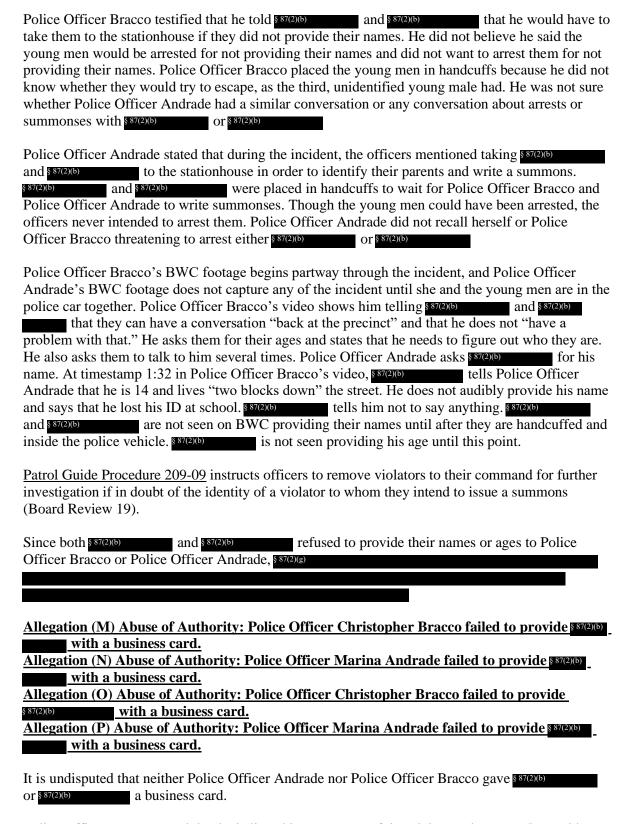
887(2)(5)

Allegation (L) Abuse of Authority: Police Officer Marina Andrade threatened to arrest

It is undisputed that during the incident, Police Officer Bracco and Police Officer Andrade placed and strong in handcuffs and later placed them in their police vehicle. It is undisputed that, when officers initially requested the names and ages of strong and stro

stated that during the incident, Police Officer Andrade told him that if he did not tell her his information, the officers could take him to the stationhouse.

stated that during the incident, he asked whether he and second were being detained, and Police Officer Bracco said yes, though he did not say why. When asked whether any officer said anything about jaywalking, second stated that, after he was placed in handcuffs, Police Officer Bracco stated that he could lock them up for jaywalking.



Police Officer Bracco stated that he believed he gave "one of the adults" at the scene (he could not recall which) a piece of paper with his name and Police Officer Andrade's name on it, as well as

possibly their shield numbers. Police Officer Bracco did not believe that this piece of paper had a phone number or his command on it, but he was unsure. Police Officer Bracco decided to give this information to either or or or because they had already contacted of and Police Officer Bracco believed that they could pass his information along to her. Police Officer Bracco acknowledged that he was required to provide his business card at the end of this incident but he felt it would be "easier" to provide the information of both officers on a single piece of paper, rather than on business cards.
Police Officer Andrade stated that \$37000 and \$37000 family members asked for Police Officer Bracco and Police Officer Andrade's names. Police Officer Andrade "believed" that Police Officer Bracco wrote down both officers' names, the name and number of the youth coordinating officer, and the 75th Precinct on a piece of paper to give to \$37000 and \$37000 family members. Police Officer Andrade believed that she was required to provide her information to a person if she stopped that person but did not issue them a summons. Police Officer Andrade denied that anyone requested a business card from her or Police Officer Bracco. She believed that she and Police Officer Bracco did not have any RTKA business cards "readily available" at the time.
and street both denied seeing either officer give any paper or paperwork to either their uncle or aunt. The CCRB was unable to obtain a statement from either street or street o
New York City Administrative Code § 14-174 and Patrol Guide Procedure 203-09 require officers to provide a business card when they have conducted a Level 3 encounter, including a frisk. Officers are allowed to offer a business card to "a parent, legal guardian, or responsible adult," if present, in lieu of a minor. If an officer runs out of business cards, they must give civilians time to write down the officer's identifying information (Board Review 20, 16).
The only acceptable reason specified in the text of the law for providing an officer's information in a manner other than on a business card is in the absence of business cards. There is no provision for an officer's belief that providing their information in an alternate method is "easier." [887(2)(2)
Police Officer Andrade believed that she was out of business cards at the time, \$87(2)(2) However, as mentioned, there is no independent confirmation that the officers' information was given to \$87(2)(3) \$87(2)(3) \$87(2)(3)
§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 8	87(4-b)			
		Civilian	and Officer CCDD Histories	
		Civilian	and Officer CCRB Histories	
•	§ 87(2)(b)			
	§ 87(2)(b)			
•	§ 87(2)(0)			
	§ 87(2)(b)			
•	3 (-)(-)			
•	Police (Officer Bracco has beer	a member of service for three ye	ears and has been a subject
			12 allegations, none of which have	
•	Police (Officer Andrade has be	en a member of service for five y	ears and has been a subject
	in three		12 allegations, none of which ha	
	§ 87(2)(g)			
		<u>Mediat</u>	<u>ion, Civil and Criminal Histori</u>	<u>es</u>
•	§ 87(2)(b)	declined to med	liate this complaint.	
•		anuary 21, 2021, the No	ew York City Office of the Comp	
		of Claim being filed reg	garding this complaint (Board Re	view 15).
•	[3 07(2)(0)] [3	33 00(1)(3)(0(4))[3 01(2)(0)]		
Squad 1	No.:	2		
1				
Investig	pator.	Rachel Murgo	Inv. Rachel Murgo	12/16/21
m v Cotte	54101.	Signature	Print Title & Name	Date

Squad Leader:	Alexander Opoku-Agyem	ang IM Alexander Opoku-Agye	mang 12/16/2021
	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date